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Kymlicka's Liberal Theory of Minority Rights: A Critical Examination

by

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A thesis submitted to the Faculty of Graduate Studies and Research in partial fulfillment of the requirements for the degree of Masters of Arts

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Faculty of Graduate Studies and Research

The undersigned certify that they have read, and recommend to the Faculty of Graduate Studies and Research for acceptance, a thesis entitled "Kymlicka's Liberal Theory of Minority Rights: A Critical Examination" submitted by Sophia Yinchee Wong in partial fulfillment of the requirements for the degree of Master of Arts.

For Papa, Mama, and Leo

Abstract

This essay critically examines Will Kymlicka's *Liberalism, Community and Culture*. I identify three pertinent issues in political theory: 1) the attempt to locate the self on the "thick/thin" conceptual continuum; 2) the competing demands for equal dignity and recognition of difference; 3) the distinction between metaphysical and political liberalism. Kymlicka claims that the context of choice provided by cultural membership grounds my ability to revise and choose meaningful options in life. Hence, members of cultural minorities are entitled to differential citizenship rights. I present two problems with Kymlicka's account. First, minority rights may have the undesired result of punishing the majority. Second, his thin theory of the good does not protect communities which do not allow their members to revise their ideas about the good life. In my view the logical extension of Kymlicka's liberal theory is to affirm that liberalization is the best course of action for cultural minorities.

Acknowledgements

My interest in cultural membership was initially sparked by encounters with fellow students at the University of Freiburg in 1992-93. I am fortunate to have been stimulated, challenged and encouraged by conversations with friends, family, and colleagues at the University of Alberta, the University of Calgary, the University of Tübingen, and Columbia University. From 1993 to 1995, I also learned much while participating in conferences sponsored by the National Association of Japanese Canadians and activities of the Edmonton Japanese Canadian Association.

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I. Introduction

In many nation-states today, citizens share in common certain privileges and responsibilities, while particular individuals may lead their lives in a variety of distinctively different ways. The hallmark of the increasingly liberalized state is a sharp division between public and private life, whereby the state enforces general rules for the smooth running of society (the good public life) while leaving considerable leeway for individual preferences in pursuing their personal projects (my private good life).

This essay asks the following fundamental question: **How does liberal theory address the demands of minority groups?** The term 'liberal' has acquired such diverse usages in various fields that everyone must start by defining her own understanding of liberalism. I am interested in the Western European political tradition which takes the individual human being as its basic unit. By a liberal political theory I mean the kind of normative theory which would prescribe freedom of speech as one of the fundamental rules of society, because there

is no way to determine which vision of the good is the correct one. I shall make use of John Rawls's distinction between metaphysical and political conceptions of liberal theory.

I shall present a critical exposition of Will Kymlicka's 1989 book *Liberalism, Community and Culture*. Kymlicka has a twofold project. His first task is to defend liberalism against the criticisms of recent communitarian writings. To refute the charge that liberalism mistakenly relies upon an atomistic and abstract individualism, he presents a liberal interpretation of community and culture which acknowledges that cultural membership is a primary good in the Rawlsian sense. Kymlicka systematically summarizes and responds to three main strands of communitarian criticism in order to construct what he considers the most defensible form of liberal political theory. His aim is to demonstrate that the individualism of his liberal view is adequately sensitive to the importance of culture and community.

Kymlicka's second task is to explore the political and legal implications of adopting his version of liberalism, which recognizes the importance of cultural membership in multinational and multicultural states. After examining the ways in which liberals have responded to situations of cultural plurality, Kymlicka gives a systematic argument for the collective rights of minority cultures, remaining within the framework of egalitarian liberalism. Specifically, he makes the case that for the aboriginal peoples in Canada, recognizing cultural membership gives rise to legitimate claims to differential citizenship rights. More generally (and more controversially), he argues that the principles of liberal equality not only allow, but indeed require that multicultural states recognize special group rights for some minority cultural communities.

Before turning to Kymlicka's work, I shall comment on three pertinent issues. First, the liberal-communitarian conversation takes place in the context of a continuing debate about divergent conceptions of the **self** - which could be described as the attempt to locate the self on the "thick/thin" continuum. Second, political theory

today must fulfill two competing demands: The principle of **equal dignity** requires that every individual be accorded equal rights and entitlements, while the **recognition of difference** asks that we acknowledge that each individual or group is distinct from everyone else. Third, I distinguish two strands within liberal thought: **metaphysical liberalism** and **political liberalism**. These remarks will become salient as the exegesis progresses.

A. Slimming the Self

One of the most common charges against liberal theories is that they presuppose a deeply misconceived notion of the self. Michael Sandel, Michael Walzer, Alisdair MacIntyre and Charles Taylor have argued that the liberal view of the self ignores our embeddedness in communal practices. To think of the self as given *prior* to its ends is to suppose that there is some 'thin' shape standing behind the relationships into which I was born, the choices I have made in life, and all my values. However, most of us perceive ourselves as being "thick

with particular traits"[1], and find it difficult to imagine what we would be without our motivations, beliefs, and ends.

Any attempt to summarize the long and detailed debate about the self would be beyond the scope of this essay. My intuition is that we (citizens embedded in Western industrialized democracies of the late twentieth century) do understand ourselves as having some fundamental values which inform the choice of our particular ends. What is fundamental for some people may be a religious or ethical position, for others a deep commitment to freedom in one of its many interpretations (which thereby amounts to an ethical position). The fundamental value for many liberals might well be a commitment to holding open the prospect of questioning one's ends - but this commitment itself is not open to revision.

My view is that we can draw some arbitrary distinction between most of our particular life-choices and a core set of fundamental commitments. These central

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[1] Michael Sandel, *Liberalism and the Limits of Justice* p. 100, quoting Nozick.

values are probably not negotiable in practice, except perhaps in extreme cases of religious conversion. However, it is plausible to think of a person deciding to forsake the political persuasion endorsed by her family for generations, or to change her moral assessment of homosexuality as a result of reflection and conversation. In such moderate cases I would not hesitate to say that the person's self remained more or less constant while she adjusted some of her particular values. This is the 'slimmer' self which I envision. Although my reflections on the value of cultural membership will rely upon this general picture of the self, I shall not provide an explicit argument for its validity. I have no ultimate refutation for the reader who insists upon a thicker version of the self, whereby it is incoherent to question the rationality of any particular commitment.

B. Equal Dignity *and* Recognition of Difference

In his essay "Multiculturalism and the Politics of Recognition",[2] Charles Taylor identifies the contemporary

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[2] Princeton University Press, 1994, pp. 25-73.

tension between two strands of politics: a politics of universalism which emphasizes the equal dignity of all citizens, and a politics of difference which demands the recognition of each individual or group as being distinct from everyone else. The desire for **equal dignity** has led to measures designed to accord all citizens the same basic rights and liberties in virtue of being citizens.[3] Thus, people are to be treated in a difference-blind fashion. In contrast, the demand for the **recognition of difference** rejects the homogeneous mold imposed by the universalist treatment and argues that the particularity of each identity must be recognized and respected. On this view, identities can be individual or collective; indeed, Taylor's account is shaped by the model of Québec, which continues to nurture and develop a collective identity as a distinct society within the Canadian state.

Kymlicka's egalitarian liberal theory of minority rights takes up the challenge of recognizing distinct identities. His theory is motivated by questions about

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[3] In the case of international human rights, this formulation is extended to the claim that all human beings are equally worthy of respect, regardless of citizenship status.

the rights of aboriginal peoples in Canada. Because cultural membership is a precondition of autonomy, Kymlicka argues, recognizing distinct cultural minorities is consistent with the egalitarianism advocated by liberalism. Taylor rejects this argument because it does not capture the goal of indefinite survival which motivates Québécois and aboriginal group claims. This point needs clarification. A close examination of Kymlicka's account of cultural membership will shed more light on the interdependence of equal dignity and recognition of difference.

C. Two Varieties of Liberalism

Each particular political theory can be situated along a continuum according to the content of its theory of the good. For example, perfectionist theories contain many stipulations about the good life, the dutiful citizen, the virtuous person, the self-realized will. These are very "thick" theories of the good. At the other extreme are "thin" theories which contain as little as possible. Note that a completely empty (i.e.

absolutely neutral) theory of the good would be meaningless; every theory has some minimal content. Liberal theories fall on the thinner side of the spectrum, with two varieties being apparent: metaphysical liberalism (moderately thin) and political liberalism (thinnest).

The first kind, **metaphysical liberalism**, starts from within the perspective of our (already liberal) society and assesses the justness of the institutions observed in other (illiberal or less liberal) cultures. There is one single, thin theory of the good which is recognized by all rational individuals, namely: "Whatever the good life may be, it is led from the inside (not coerced by the state) and must be always open to revision." This stipulation clearly affirms the intrinsic good of revising one's plans, thereby necessarily rejecting the alternative view of a permanent commitment to some particular way of life. In including this much in its theory of the good, metaphysical liberalism holds that societal institutions are justifiable to the extent that they effectively protect and/or promote that good. In avowing that leading the best possible life *requires*

being able to revise one's conception of the good life, for example, I am making a substantive claim about the good.

Will Kymlicka's political theory presents a version of metaphysical liberalism. Arguing that there are no "genuine examples of people *in our society* who reject the revisability view of our ends",[4] Kymlicka assumes that everyone agrees in valuing revisability as a necessary component of the good life. The logical consequence of this assumption is to eliminate the choices of fundamentalist religious groups, cults, and fanatics as possible ways of leading the good life, because they do not qualify as possible participants in a just society on this view. The end result of holding metaphysical liberalism is to restrict the scope of one's political theory to the group of people who already accept the revisability theory of the good. On this view, any society which does not allow its members the possibility of revising their fundamental commitments is neither just nor justifiable. With respect to such cases, the metaphysical liberal's task is to proselytize - to

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[4] Will Kymlicka, *Liberalism, Community and Culture*, 61, my emphasis.

persuade people who hold illiberal views to see the error of their ways. As Kymlicka writes, "finding a way to liberalize a cultural community without destroying it is a task that liberals face in every country."[5]

In contrast, Rawls offers his doctrine of **political liberalism** which does not entail endorsing liberalism as a comprehensive doctrine.[6] Rather, political liberalism allows for a plurality of reasonable though opposing comprehensive doctrines, each with its own conception of the good. The concept of neutrality is distinctive of political liberalism, as Charles Larmore writes:

> The ideal of neutrality can best be understood as a response to the variety of conceptions of the good life... The state should not seek to promote any particular conception of the good life because of its presumed *intrinsic* superiority - that is, because it is supposedly a *truer* conception.[7]

As a political conception, Rawls's justice as fairness "seeks common ground -or if one prefers, neutral ground-

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[5] Will Kymlicka, *Liberalism, Community and Culture*, p. 170.

[6] Rawls coined the term "political liberalism" in "The Idea of an Overlapping Consensus", *Oxford Journal of Legal Studies* 7, no. 1 (1987), 24.

[7] *Patterns of Moral Complexity*, p. 43.

given the fact of pluralism. This common ground is the political conception itself as the focus of an overlapping consensus."[8] Thus the view aims to abstract from comprehensive religious, philosophical and moral doctrines.

Note here the distinction between neutrality in aim and neutrality in effect. Joseph Raz has formulated three versions of neutrality[9]:

N1 - the state is to ensure for all citizens equal opportunity to advance any conception of the good which respects the principles of justice;

N2 - the state is not to do anything intended to favour or promote any particular comprehensive doctrine rather than another.[10]

N3 - the state is not to do anything that makes it more likely that individuals accept any particular conception of the good rather than another.

N1 and N2 have to do with neutrality *in aim*. Regarding N3, neutrality *in effect*, Rawls observes that the basic structure will necessarily influence the survival of

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[8] John Rawls, *Political Liberalism*, p. 192.

[9] Joseph Raz, *Morality of Freedom*, pp. 114f.

[10] *Political Liberalism*, p. 193-4.

comprehensive doctrines. Political liberalism therefore abandons neutrality of effect or influence as being impracticable. People can agree upon endorsing the basic principles of justice, even if the reasons given by their comprehensive doctrines differ radically. Thus an overlapping consensus is meant to ensure social unity and stability.[11]

Metaphysical liberalism, on the other hand, is neither neutral in aim nor in effect. It affirms the superiority of the revisability theory of the good and endeavours to bring citizens to recognize the correctness of that conception.

II. Kymlicka's Liberal Theory

A. The Two Preconditions for a Good Life

In Chapter 2 Kymlicka starts by identifying what he takes as the central criticism shared by communitarian, socialist and feminist writers: that liberalism is

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[11] *Political Liberalism*, p. 134.

excessively 'individualist' or 'atomist'. He specifies that his concern is with "liberalism as a normative political philosophy"[12] and that he will be defending the political morality which he shares with his liberal contemporaries, drawing upon the resources of modern liberals from Mill through to Rawls and Dworkin. On his view, all liberal concerns stem from just *two* fundamental preconditions for leading a good life, namely:

> P1. We must "lead our life from the inside, in accordance with our beliefs about what gives value to life."
>
> P2. We must "be free to question those beliefs, to examine them in the light of whatever information and examples and arguments our culture can provide." [13]

Contemporary liberal theories of justice are based upon these two requirements for fulfilling our 'essential interest' in having as good a life as possible. The first precondition is described by Rawls as *self-respect*, the 'sense that one's plan of life is worth carrying out'.[13] Note the two elements of P2:

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[12] Will Kymlicka, *Liberalism, Community and Culture*, p. 9. All subsequent citations of this work will be immediately followed by the page number(s) enclosed in square brackets.

[13] Rawls, *TJ* p. 178.

P2a. I, the individual, *revise* my beliefs about what gives value to life (i.e. I may alter these beliefs in the light of additional information, examples and arguments).

P2b. It is from my cultural context that I acquire the ability to examine and re-examine different views about the good life (i.e. it is always the case that information, examples and arguments about different beliefs and values are provided by my own culture.)

Notice also that Kymlicka draws one important consequence from each of his basic two preconditions. In order to lead my life from the inside according to my chosen beliefs about the good life (P1),

C1. I must have the resources and liberties needed to live my life in accordance with my beliefs about value, without being imprisoned or penalized. "Hence the traditional liberal concern for civil and personal liberties." [13]

In order to be free to question my beliefs (P2), I, the individual, must become aware of different views of the good life, *and* I must also acquire the ability to examine and re-examine my chosen beliefs about what makes a good life in light of these different views.

C2. Therefore, given that my culture provides me with the necessary information about different values and with the ability to judge what is

> valuable in life "by exploring different aspects of our collective cultural heritage", I must be able to enjoy my membership in my culture. "Hence the equally traditional liberal concern for education, freedom of the press, artistic freedom, etc." [13]

By now it should be clear what is at stake in this sketch of contemporary liberalism's political conception. Political liberals like Rawls would acknowledge that the roots of this morality are indeed cultural, handed down from the English and American tradition of political thought.

Liberalism is not simply one among competing conceptions of the good life: it is the whole framework of thinking which sets the above two preconditions for living a good life. It is certainly not the case that all cultures provide information enabling their members to revise and re-examine their beliefs; indeed, many traditional and fundamentalist cultures actively discourage questioning of the beliefs handed down by generations of authority figures. The characteristic stance of metaphysical liberalism is to condemn authoritarian regimes which determine the life-choices of their citizens, thereby forcing them to lead their lives

'from the outside', as it were. In other words, the 'revisability of life-options' creed of liberalism is the summary statement of a particular cultural world-view.[14] It is perhaps because most of Kymlicka's readers are firmly ensconced in a society which embodies Western democratic liberalism that this point has gone largely unheeded. The importance of acknowledging metaphysical liberalism as a *culture* in itself rather than a neutral meeting-ground for various cultures will become evident as Kymlicka's two-part project unfolds.

B. Two Kinds of Community

In the intervening chapters Kymlicka meets the communitarians halfway by giving his view of the individual as being a member of a particular cultural community. I shall leave aside the taxonomical question of whether Kymlicka can be considered more of a

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[14] As Charles Taylor remarks:
Liberalism is not a possible meeting ground for all cultures, but is the political expression of one range of cultures, and quite incompatible with other ranges... All this is to say that liberalism can't and shouldn't claim complete cultural neutrality. Liberalism is also a fighting creed." *Multiculturalism and the 'Politics of Recognition'*, p. 62.

communitarian than a 'true' liberal. My task in this section is to identify the crucial elements of Kymlicka's political theory, keeping in mind the criticism presented by Taylor, who situates himself decidedly more toward the communitarian end of the spectrum.

In Chapter 7 Kymlicka distinguishes between two kinds of community: political and cultural [135]. He uses the term 'political community' to denote the framework of liberal justice within which individuals exercise rights and responsibilities. It is within the *cultural* community that "individuals form and revise their aims and ambitions."

What is a cultural community? According to *Liberalism, Community and Culture,* "people within the same cultural community share a culture, a language and history which defines their cultural membership." [135] In a footnote Kymlicka adds that any definition will contain two components: "(1) an objective component dealing with such things as a common heritage and language; (2) a subjective component dealing with self-identification with the group."[179] I agree with his

assessment that "that by itself is much too vague." Wittgenstein's way of defining the concept of a game might be a useful precedent to follow here. Although we may not be able to stipulate necessary and sufficient conditions for classifying a group of people as a cultural community, perhaps we can list some characteristics which in combination are relevant to the concept.

Is there a family resemblance among cultural communities? Consider the fruitful example set by Avishai Margalit and Joseph Raz, who suggest six characteristics of groups that in combination are relevant to a case for national self-determination.[15] Let us examine their first characteristic:

> 1. The group has a common character and a common culture that defines or marks a variety of forms or styles of life, types, of activity, occupation, pursuit, and relationship. With national groups we expect to find national cuisines, distinctive architectural styles, a common language, distinctive literary and artistic traditions, national music, customs, dress, ceremonies and holidays, etc. None of these is necessary. They

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[15]"National Self-Determination", reprinted in *Ethics in the Public Domain* (Oxford: Clarendon Press, 1994), pp. 114-7.

> are but typical examples of the features that characterize peoples and other groups that... have pervasive cultures, and their identity is determined at least in part by their culture.[16]

Continuing in a similar vein, Margalit and Raz state that 2) people growing up among members of the group will be marked by its character to a significant degree; 3) one belongs to such a group by mutual recognition (being recognized by other members of the group as belonging to it); 4) membership is important for one's self-identification; 5) membership is a matter of belonging, not of achievement (one belongs because of who one is, not what one does); and 6) the groups concerned are not solely based on personal familiarity - rather, they are anonymous groups, where mutual recognition is secured by the possession of general characteristics, symbolic objects, participation in group ceremonies, special group manners or vocabulary. This way of describing cultural communities gives us a group of specific features to seek, while not insisting that every feature entails all the others, or that they all necessarily go together.

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[16] Ibid., p. 114.

There may be more than one cultural community within a political community, as is the case in Canada and many other culturally plural states. Kymlicka's central concern is to prove that **people do have a legitimate interest in ensuring the continuation of their own culture, even if other cultures are available in the political community.** [136] In order to construct a liberal defence of minority rights, Kymlicka must first establish the paramount value of cultural membership within a liberal political theory.

C. The Value of Cultural Membership

In Chapter 8 Kymlicka argues that cultural membership has value as a 'primary good' in the Rawlsian sense. Let me first recapitulate Rawls's definition of 'primary goods'. I shall then outline Kymlicka's argument and show how it proceeds directly from the basic preconditions and assumptions demonstrated above.

In *A Theory of Justice*, Rawls writes that the primary subject of justice is the "basic structure of society",

namely, the way in which major institutions distribute rights, duties and the advantages of social cooperation. These "major social institutions" are the political constitution and the principal economic and social arrangements which are fundamental to most industrialized democracies: things like the legal protection of freedom of thought and liberty of conscience, competitive markets, private property, and the monogamous family.[17] What are the goods which are distributed by these institutions and arrangements? **Primary goods** are things that every rational person can use to pursue her conception of the good, regardless of the details of her life-plan:

> With more of these goods men can generally be assured of greater success in carrying out their intentions and in advancing their ends, whatever these ends may be.[18]

In Rawls's theory of justice, therefore, everyone is presumed to want the primary goods. These fall into two groups: *natural* primary goods and *social* primary

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[17] Rawls, *A Theory of Justice*, p. 7.

[18] Rawls, *TJ* p. 92.

goods.[19] The social primary goods are rights and liberties, opportunities and powers, income and wealth.[20] They are *social* goods because they are closely connected with the basic structure of society; "liberties and powers are defined by the rules of major institutions and the distribution of income and wealth is regulated by them."[21] Since Kymlicka is ultimately concerned with the equitable distribution of cultural membership by political institutions, let us focus on social primary goods.[22]

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[19] Rawls, *TJ*, p. 62. Rawls's examples of natural goods are "health and vigor, intelligence and imagination." It would be fascinating to investigate to what extent the distribution of these 'natural' advantages is influenced by the practices of social cooperation.

[20] In *Political Liberalism* (p. 181) Rawls gives the following expanded list of primary goods:
a. basic rights and liberties;
b. freedom of movement and free choice of occupation against a background of diverse opportunities;
c. powers and prerogatives of offices and positions of responsibility in the political and economic institutions of the basic structure;
d. income and wealth; and finally,
e. the social bases of self-respect.

[21] Rawls, *TJ* p. 92.

[22] Wherever I subsequently use the term "primary goods" I shall be referring to *social* primary goods.

In order to determine whether Rawls would include cultural membership (CM) as a primary good, we must consider the following two questions:

1. Can we presume that every rational person wants more of CM rather than less, whatever else she wants?
2. Is CM a good "at the disposition of society", i.e. to be distributed by the basic structure of society (institutions, etc.) just like rights, liberties, income...?
3. If the answer to the second question is yes, does society have an obligation to ensure that every citizen has equal access to the good of cultural membership?

The first question asks whether Kymlicka's good of cultural membership fits Rawls's definition of primary goods. Is CM something that every rational person can use to pursue her conception of the good, regardless of the details of her life-plan? Here we encounter the first objection from the advocates of the thicker self. Someone might argue that the very notion of a primary good presupposes a slimmer self, a self characterized minimally by a metaphysically general rationality. This self can "step back" from her conception of the good and

assess whether it is rational to want more of one particular something, such as a basic liberty, or economic advantage.

2. The second question is whether cultural membership is indeed a good to be distributed by the basic structure of society. This question has been raised by numerous critics of multicultural policy in Canada, who deny that cultural membership is made possible by government policy. To take just one example, Trinidadian-born author Neil Bissoondath purportedly speaks as an "ethnic" in Canada. In his recent book *Selling Illusions: The Cult of Multiculturalism in Canada*, he writes:

> It is time we removed personal culture and ethnicity from the manipulative realm of public policy and returned it to individuals and their families, the only sphere where they have any true and lasting value...[23]

This is a highly contentious notion of culture and ethnicity. First of all, this view assumes that cultural membership is an exclusively personal matter, that it makes sense to speak of "personal culture." To imagine a

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[23] Bissoondath, "I am Canadian", *Saturday Night* magazine, October 1994, p.20.

'culture' consisting of a single person is to reduce this claim to absurdity, or to refer to something far more idiosyncratic; personality, perhaps. Culture cannot be limited to the personal level. Surely the very concept of a culture entails interpersonal interaction, a shared way of living. In the next section I shall explore the connection between culture, community and plurality.

This reading of Bissoondath may seem uncharitable. Perhaps he is simply suggesting that an individual may learn about her culture primarily from her family, and to a lesser extent from a broader cultural community. Perhaps he even acknowledges that culture is inseparable from community, but holds that government and society are not responsible for maintaining the integrity of a person's relationship to her culture.[24] This separate point constitutes a pertinent objection to federal multicultural policy in Canada. However, the following passage confirms that Bissoondath unequivocally *denies* the role of an individual's interaction with a community in developing a sense of cultural heritage:

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[24] This is the position of the Reform Party of Canada.

> Heritage belongs first and foremost to the individual. It seems to me possible to instruct an individual child in his or her cultural heritage without erecting ghetto walls by engaging in communal endeavour. Emphasizing the "I" and de-emphasizing the "we" may be the only way to avoid the development of cultural chauvinism...[25]

What characterizes a culture? *Shared* understandings, shared histories and traditions, a communal language, a common territory - these are some of the ties that bind people together in cultural membership. As Charles Taylor argued in 1971, common meanings are the basis of community:

> What the ontology of mainstream social science lacks is the notion of meaning as not simply for an individual subject; of a subject who can be a 'we' as well as an 'I'.[26]

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[25] *Selling Illusions*, p. 213.

[27] Charles Taylor, "Interpretation and the Science of Man", *Review of Metaphysics* 1971. In *Philosophical Papers* vol. 2, *Philosophy and the Human Sciences*, p. 40.

D. Culture Requires Plurality

A culture cannot exist without the co-existence and cooperation of many people, the support and infrastructure of a recognized community. As a parent, Bissoondath aspires to acquaint his daughter with her cultural heritage. Single-handedly he will tell her about the grandmothers she never knew, about her Trinidadian great-grandfather, show her photos of those now dead, narrate the stories of his family's distant past and of his coming to Canada in the 1960s.[27] Having heard all these stories, "she will be acquainted, then, with her heritage"[28] - voilà!

Bissoondath is best known for his fiction writing. This is a compelling tale of a child successfully planted in rich narrative soil, nurtured by her father's cultural roots across the ocean. In order to disclose the theoretical basis for Bissoondath's claim about cultural membership, let me start by investigating the ramifications

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[28] Bissoondath hopes that she will also develop a consciousness of her identity as the daughter of a Québécoise mother. Given that the Québécois cultural community is well established and recognized in Canada, I shall limit the discussion to the development of this child's Trinidadian cultural heritage.

[29] *Selling Illusions*, p. 214.

of this story. I shall then move to a hypothetical scenario which will bring out the salient features for our discussion.

The father declares that he can serve as his daughter's only cultural ambassador of Trinidad. Having learned the stories of his island culture and of his family origins, the writer who came to Toronto at the ripe age of eighteen is now qualified to initiate his daughter into the "body of knowledge" of her (their?) cultural heritage. It is not necessary for his daughter to meet and get acquainted with living, growing Canadians of Trinidadian descent (other than her father). Public policies, such as educational curricula which recognize and explore the diverse cultural origins of schoolchildren, would be superfluous. No need for cultural gatherings, festivals celebrating multiculturalism (either privately or publicly funded) where young Canadians could start to distinguish the characteristic traits of their individual cultural heritages against the background of other cultures of origin. After all, each of the above activities would constitute some kind of communal endeavour. Having simply seen photos and heard stories of the ancestors she never

met, the daughter will feel rooted in an invisible extended family and will proceed (under her father's guidance) to develop her identity as a Canadian of Trinidadian heritage.

What is the theoretical significance of this story? The claim is that an individual well versed in his original cultural heritage can single-handedly establish a secure cultural identity in a child who is born and raised in quite a different cultural milieu. This feat is to be achieved using only artifacts such as photos, stories, perhaps also heirloom items, books, music, films, and recipes. Presumably such a parent-child pair could exist in total physical isolation from the original cultural community, since they do not require interaction with others of the same cultural origin.

"Two Smogarians on Mars"

Consider now the hypothetical scenario wherein a Smogarian astronaut goes to Mars to carry out a ten-year study. ("Smogarian" is the generic term for a person of arbitrary ethnic origin, used by schoolchildren when telling ethnic jokes in a multicultural setting.) Part of

the project is to investigate whether culture can be passed on by one individual alone. After landing, the astronaut gives birth to a child. We can imagine that this intelligent, articulate, well-educated scientist starts by singing Smogarian lullabies. During the ten years on Mars, she tells her child the stories of Smogarian folklore, cooks Smogarian delicacies, and teaches the moral values of Smogarian tradition both by example and by lecture. Drawing upon the richness of the vibrant Smogarian community in which she was raised, the astronaut endeavours to give her child a sense of belonging to that same community. Will this Martian-born child develop an identity as being of Smogarian origin?

The question is debatable. It is doubtful whether even the most self-reflective parent would be able to single-handedly distinguish which of her personality traits stem from her cultural background as Smogarian, which are characteristic of the geographical region in which she grew up, and which quirks are purely personal. Each of us has experienced the surprise with which one of our friends or perhaps a complete stranger pinpoints a certain habit, manner of speaking or way of behaving, and proceeds to

attribute this trait to one or another of our "constitutive attachments" in life. Even the most experienced anthropologists presumably have a blind spot or two. It is my contention that in order to get a meaningful sense of his cultural heritage, the Martian child would have to get acquainted with a group of Smogarians in order to identify what they share in common with his mother.

In any event, we can push the Martian case to its implausible limit by granting that the Martian-born child has been successfully raised as a Smogarian. After his mother returns to Earth, however, he decides that he would prefer to continue to live on Mars with the charming creature he has met there. I do not think anyone would claim that this Martian of Smogarian origin would be able to pass on a Smogarian cultural identity to his children.

A plurality of members is the fundamental precondition of any definition of culture, including Kymlicka's. In fact, by stating that "individuals and their families" constitute the proper sphere of culture, Bissoondath acknowledges that one cannot speak exclusively of individuals when discussing cultural membership; for him

the irreducible unit of any culture is the family as understood in that culture.

To assert that the sphere of the family is divorced from the realm of public policy is spurious, as Susan Moller Okin argues convincingly in *Justice, Gender and the Family*.[29] Okin shows that when we turn to the family, we notice immediately that the complex of state institutions and laws is intimately involved in establishing, recognizing and indeed structuring familial relationships.[30]

Clearly, when we speak of cultural membership, we are necessarily speaking of people or groups of people. Having granted this, however, it could still be argued that groups of citizens can maintain and enjoy the good of cultural

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[29] Basic Books, 1989. Cf. especially Chapter 5, "Justice as Fairness: For Whom?" in which Okin develops the potential of Rawls's *A Theory of Justice* for feminist critique. Okin and other feminists have succeeded in showing that the "private" domestic life of the family and the "public" life of politics are intimately linked and do indeed influence each other in ways hitherto ignored or denied by most political theorists.

[30] Cf. also Levi-Strauss, "The Future of Kinship Studies", The Huxley Memorial Lecture 1965 in *Proceedings of the Royal Anthropological Institute*. 1965: 13-22. The main argument of this essay is that human communities develop various forms of kinship in response to practical problems. This practice is both historical and ongoing.

membership independently of the basic structure.[31] Indeed, the same goes for rights and liberties, opportunities and powers, income and wealth - Rawls's primary social goods . These, too, can be obtained and maintained by a group of citizens without governmental support - indeed, private clubs are designed primarily to gain control over economic opportunities, positions of power, and wealth. These primary goods are then distributed among the privileged club members. However, this feature of public life does not preclude the fundamental connection between primary goods and the basic structure of society; it is still true that "liberties and powers are [primarily] defined by the rules of major institutions and the distribution of income and wealth is [for the most part] regulated by them."[32]

In Canada, cultural membership is first and foremost defined by the rules of major institutions such as public education, legal protection of freedom of thought and liberty of conscience, competitive markets, private

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[31] The Reform Party of Canada holds this view. In attacking federal multiculturalism funding, they contend that any citizen who wishes to enjoy the benefits of a culture other than "mainstream" Canadian culture, should personally provide all funds toward that end.

[32] Rawls, *TJ* p. 92. The bracketed modifiers are my own.

property, and the monogamous family.[33] This description fulfills the criteria for a primary social good. For Rawls, "free choice of occupation against a background of diverse opportunities"[34] is made possible by the way the basic structure supports diversity of opportunity. Similarly for Kymlicka, free choice of cultural membership is made possible by the reflective questioning and examination of beliefs "in the light of whatever information and examples and arguments our culture can provide."[35] If we accept the above reasons for claiming that Rawls's *Theory of Justice* overlooks the importance of cultural membership as a primary good, it is time to examine how Kymlicka addresses this lacuna. Before moving into Kymlicka's argument, let us address the question of motivation. Why does Kymlicka take such pains to construct an argument for recognizing cultural membership as a primary good?

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[33] Rawls, *A Theory of Justice*, p. 7.

[34] Cf. *PL* p. 181: this is second on Rawls's list of primary goods.

[35] Recall that this is Kymlicka's second precondition for leading a good life, *LCC* 13.

The linchpin of Kymlicka's case is his contention that Rawls "implicitly assumes that the political community is culturally homogeneous" [166] This criticism applies to *A Theory of Justice*, but not to *Political Liberalism*, in which Rawls's overlapping consensus constitutes his response to the fact of reasonable pluralism - "the fact of a plurality of reasonable but incompatible comprehensive doctrines."[36] Kymlicka's argument should thus be analyzed as motivated by Rawls's earlier work. In a culturally homogeneous country, writes Kymlicka, cultural membership is:

> a kind of public good, equally available to all... It isn't likely to be a source of unjust inequalities in such a country, since there is only one cultural structure for all citizens. [177-8]

According to Kymlicka, Rawls invokes the notion of a shared cultural structure (in American society) and falsely assumes "that there is only one such cultural structure in each political community." [178, my emphasis] This is the reason why Rawls does not explicitly recognize cultural membership as a primary social good. Kymlicka contends that Rawls's account does not accommodate culturally plural

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[36] *Political Liberalism*, pp. xvi-xvii.

states such as Canada. Because there is more than one ethnic cultural community in Canada, Kymlicka argues, there is no single over-arching cultural structure for all Canadians. "The basic structure is an attribute of the political community, and nothing warrants Rawls's assumption that there will be only one cultural structure inside it." [178] For Kymlicka, this assumption of a common cultural structure indicates a conflation of the political and cultural communities.

Kymlicka starts by acknowledging that for Rawls, the individual's interest in the 'liberties of equal citizenship' takes precedence. These liberties guarantee us a measure of personal independence which we need in order to decide freely and intelligently what we find valuable in life. Again, Kymlicka stresses that people should be free,

> not just to act in accordance with their current religious beliefs, for example, but also to question these beliefs, and to adopt other beliefs, without being deprived of their liberties or their resources, without being penalized or discriminated against by society. [164]

To pursue the example, which religious minorities would Kymlicka admit as part of a liberal civil society? What about religious sects which make it their practice to withhold or repress information about other religious beliefs, or to discourage believers from investigating other religions? Surely these have no place in a liberal culture, for the citizens who subscribe to such faiths are clearly being deprived of the opportunity to freely question their beliefs. Habermas makes this point:

> As the Rushdie case reminded us, a fundamentalism that leads to a practice of intolerance is incompatible with the democratic constitutional state... In multicultural societies the national constitution can tolerate only forms of life articulated within the medium of...non-fundamentalist traditions.[37]

This statement accords with P2, that any culture in a liberal society must allow us to revise our life-options. Hence, we can specify that any argument for the value of cultural membership, then, will refer exclusively to membership in 'cultures' which are non-fundamentalist.

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[37] Habermas, "Struggles for Recognition", in "Multiculturalism and the 'Politics of Recognition'", p. 132-3.

The second step of Kymlicka's argument is to examine how the range of our life-options is determined. As children, we start to hear about the lives, roles and choices of other people, who may serve as models for our future life options. On Kymlicka's view, "linguistic and historical processes" convey to us the significance of options and choices. He notes that language renders vivid various ways of life to us, and that this is "a matter of our cultural heritage", the sense of belonging to a cultural structure and history. This account is compatible with many communitarian explanations of how we are bound to our cultural communities, situated among diverse narratives which have surrounded us since childhood and from which we choose the options which constitute our own lives. Different ways of life "are identified as having significance by our culture, because they fit into some pattern of activities which is culturally recognized as a way of leading one's life." [165]

Indeed, Kymlicka makes the excellent point that we do not judge our life-options by exploring a number of different life-paths "which might in principle be judged in abstraction from any cultural structure." [165] This point

answers the communitarian charge that liberals too often neglect the embeddedness of the individual in her cultural context.[38] It is only from within a specific cultural context, from a familiarity with my own way of life that I make judgments about other ways of life. Kymlicka, however, pursues the point further:

> Rather, we make these judgments precisely by examining the cultural structure, by coming to an awareness of the possibilities it has, the different activities it identifies as significant.[165]

Here we come to a theoretical crossroads of sorts. Some people believe that it is possible to examine one's own cultural structure from within, to acknowledge the values and beliefs necessarily inculcated by one's upbringing and to 'compensate' for the ensuing bias in one's outside perspective on other cultures. For example, a Western feminist in the 1990s may view the practice of female circumcision as a barbaric violation of young girls' bodies. But when he reflects that his own culture has led him to endorse other forms of bodily mutilation in the name of social conformity, the feminist may learn something

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[38] In the absence of a precise definition, I take it that Kymlicka's term "cultural structure" and the term "cultural context" are roughly equivalent.

about the way in which his perspective on other cultures has been formed. Claiming that by undergoing this reflection, he has sufficiently 'situated' his perspective, he may proceed to condemn or endorse female circumcision on grounds similar to those he invokes in critically assessing his own society's practices. Is he justified in making this claim? The crucial question reduces to the following: **Is one's (inward) perspective on one's own culture interchangeable with one's (outward) perspective on other cultures**?

E. The Interchangeability Thesis

This question is decisive because our answer to it will clarify our conception of a cultural structure. In answering "Yes", one may claim, like the feminist, that it is possible to "correct" for cultural bias and to compare different cultural practices while acknowledging one's vantage point as being situated in one's home culture. One's inward perspective would then be comparable to one's outward perspective; that is, (given enough background information) I am justified in thoughtfully comparing the family roles which I observe in my parents' home, with the

roles played by the parents and siblings of my Muslim friends in Africa. Giving a "Yes" answer entails that my cultural structure is interchangeable, holding open the possibility that I can choose to reject the role models of my childhood and take up a variety of practices from any cultures that I have carefully and reflectively observed. Most metaphysical liberals would probably concur with this answer, which I shall call **the interchangeability thesis.**

The "No" side, conversely, might claim that my inward perspective on my own culture is different from my outward view of other cultures. There are two ways of making this claim. First, a communitarian like MacIntyre might argue that my own tradition is the one I know best. Hence, he might argue, my inward perspective on my home culture is uniquely privileged. He stresses the impossibility of trying to evaluate different traditions by trying to get outside them. He writes, "We have learned... that the resources of adequate rationality are made available to us only in and through traditions".[39] Once I have adopted a tradition which I recognize as intelligibly my own, I can proceed to place myself imaginatively within some rival

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[39] A. MacIntyre, *Whose Justice?*, p. 367.

tradition: the ensuing conversation between traditions is MacIntyre's prescribed method of generating a satisfactory and defensible account of justice and practical rationality. My home tradition, however, remains my "first language", the one which I best understand and the one upon which I model my translation of rival traditions.

The second way to answer "no" to the question of interchangeability is to assert that my perspective on other cultures is epistemically privileged when compared to my perspective upon my own culture from within. This view is based on the principle that I can never view my own culture objectively because it constitutes the background for all my judgments. Assuming this principle, one might argue that when I observe a foreign culture, I am better able to note its basic conceptions and moral values. Thus the 'outward' perspective would be privileged over the 'inward' perspective.

It might be helpful to observe that this question parallels the "inside/outside" dichotomy (cf. Rawls). There is a world of difference between: 1) my pursuing

certain life-goals which I find worthy for reasons which I find compelling; and

2) my pursuing other life-goals, which are in fact the same as the goals of my friend W's goals, because I have enviously observed the apparent success of W's life-path.

What is the difference between these two situations? For some people, the fact that W's life seems to be a good life gives them sufficient reason to emulate W's actions. Am I leading my life "from the outside" because I've taken up someone else's life-goals?

My inclination is to reply that the worthiness of my pursuits can only be judged from within. Rawls's requirement that a good life is led "from the inside" implies that the merit of a life-goal can only be judged from inside that person's own life. As liberals striving for neutrality, we are concerned here with determining a pursuit's worthiness for me, not trying to impose some objective standard of worthiness 'in itself'. Only perfectionists would judge a person's choices against the background of what they consider to be of uncontested moral worth.

This claim is intuitively appealing because it recognizes the modern ideal of authenticity, articulated in the eighteenth century by Herder, whereby each of us has an original way of being human. As Taylor summarizes this position:

> there is a certain way of being human that is my way. I am called upon to live my life in this way... If I am not [true to myself], I miss the point of my life; I miss what being human is for me.[40]

This ideal of authenticity is the common ground between contemporary liberals and their communitarian critics, - one does not have to hark after Herder to subscribe to this ideal. Indeed, Mill appeals to this ideal in *On Liberty*:

> If a person possesses any tolerable amount of common sense and experience, his own mode of laying out his existence is the best, not because it is the best in itself, but because it is his own mode.[41]

Let us now return to the question of the inter-changeability thesis. It is clear that Kymlicka holds, as a liberal, that every individual can indeed choose to reject the life-options offered by her upbringing and

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[40] Taylor, "Multiculturalism and the 'Politics of Recognition'", p. 30.

[41] J.S. Mill, *Three Essays* (Oxford: OUP, 1975), p. 83.

culture, instead opting for another range of choices provided by some other culture of which she has been made aware (thanks to the civil liberties of freedom of speech, thought, and religion.) At the same time, however, Kymlicka acknowledges that cultural structures are important because "it's only through having a rich and secure cultural structure that people can become aware, in a vivid way, of the options available to them, and intelligently examine their value."[165] It is for this reason (viz. that enjoying a secure cultural structure provides me with a wide and meaningful range of life-options) that Kymlicka argues for the inclusion of cultural membership among the primary goods with which (Rawlsian) justice is concerned. Cultural membership provides people with a context of choice.

However, how does this line of argument relate to the question of metaphysical liberalism as embodying and embedded in a cultural structure itself? Consider the following question posed by Kymlicka:

> If the English can allow the character of their culture to change (by granting freedom of sexual life-style) without destroying their cultural community, why can't other cultures? [169]

Underlying this query is the assumption that every cultural community can be converted into a variant of a Western liberal cultural community such as the English or the Dutch. In effect, Kymlicka asks whether one cultural structure can substitute just as well for another.

Surprisingly, given that he endorses the interchangeability of perspectives, Kymlicka's answer is no. He argues explicitly that "people are bound, in an important way, to their own cultural community. We can't just transplant people from one culture to another, even if we provide the opportunity to learn the other language and culture."[42] Kymlicka cites the experiences of aboriginal peoples in Canada and of black South Africans to emphasize that stripping an individual of her cultural heritage results in disruptive, if not devastating damage.[43] He claims that the sense of belonging to a cultural structure and history "may affect our very sense of agency."

Here he seems to be steering closer to communitarian waters. There is a remarkable conflict between two ideas

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[42] *LCC* p. 175.

[43] *LCC* p. 174-6.

here: Kymlicka starts with the metaphysical liberal picture of the slim, rational self capable of revising its conception of the good life at any time. However, when it comes to the primary good of one's cultural membership, this context of choice which makes possible all meaningful pursuit of life-options, the self is embedded in the original cultural structure and cannot survive when 'transplanted' to any other culture. How are these two positions to be interpreted as consistent with one another?

F. Minority Rights

We have seen that Kymlicka's arguments for including cultural membership as a primary good make use of the following premises:

1) that having a secure context of choice is necessary to being able to lead one's life from the inside;

2) that this context of choice is provided by membership in a culture;

3) that one's own cultural membership is constitutive of personal identity and that assisting someone's assimilation to another culture is not equivalent to respecting her own cultural membership.

I have argued that the very concept of cultural membership entails a plurality of people, not just a museum collection of carefully preserved artifacts. This justifies the next step, which is to ask whether the liberal state has an obligation to ensure the continued existence of cultural minorities (human communities).

The immediate objection is that it should be the responsibility of cultural minorities themselves to fund the institutions (e.g. schools, churches, community centres) necessary for the continued existence of their community. People who live in sparsely-populated areas of the city may need to purchase and maintain a vehicle, because establishing transit service in their area would not serve the majority of city-dwellers. Analogously, cultural minorities are responsible for the costs of services which will not benefit the cultural majority. Someone belonging to the majority culture might ask, what makes the cost of inequality in cultural membership different from any other cost of unequal access?

To reply to this objection, Kymlicka distinguishes between responsibility for **choices** and responsibility for

circumstances. People are responsible for the costs associated with their projects and aims, insofar as these costs arise from their choice. To a liberal like Rawls or Dworkin, argues Kymlicka, people are capable of adjusting their aims and so can and should take into account the cost of their choices. It would be unfair for the liquor control board to subsidize expensive tastes, for example offering reduced prices on single malt whiskey at the expense of making other customers pay more for their American beer. It is not the responsibility of beer-drinkers to pay for the choices of whiskey-drinkers; whoever has expensive projects can allocate her budget accordingly, or may indeed come to revise her choice and turn to less costly alternatives.

In Kymlicka's view, however, not all inequalities arise from choices. People do not choose the circumstances into which they are born - their social environment, natural endowments or disabilities, class or race. Unlike the fine whiskey-drinker, someone who needs expensive medicine due to a natural disability has a legitimate claim to special public subsidy. She is not responsible for the

cost of her disadvantageous circumstances.[44] Aboriginal people are born into cultural communities which are costly to maintain in virtue of being minorities. While we as consumers may select from a range of beverages in various flavours and prices, we cannot comparison-shop among cultures. Those who happen to belong to the majority culture in English-speaking Canada find that everything around them gives shape to their culture: the official language, the legislature, workplaces, the school system and curricula, library collections, housing and urban planning decisions, even social institutions like public holidays, marriage, child-care arrangements. In other words, the public sphere sustains people's private contexts of choice: public resources are being used largely to reinforce the cultural institutions of the majority, and rightly so according to democratic lights.

The problem at hand, however, goes deeper than the fact that minorities get short shrift in any scheme of majoritarian rule. People belonging to aboriginal cultures, (who are not responsible for the circumstances of their birth), Kymlicka argues, should not be penalized by

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[44] *LCC* p. 186.

having to assimilate for lack of a secure cultural context. Instead, he calls for special measures to ensure that their cultural structure survives. After all, the routine measures of government work every day to ensure that the majority cultural structure is maintained, whether we notice it or not. As Kymlicka puts it, English-speaking Canadians "get for free what aboriginal people have to pay for: secure cultural membership."[45]

Two Ships

To illustrate the inequality between majority and minority cultures, Kymlicka uses the analogy of the two ships, a variation of Dworkin's equality of resources scheme.[46] Dworkin asks us to imagine a vessel shipwrecked on a deserted island, where each of the passengers begins with an equal amount of money. The social resources are auctioned among the passengers, thus determining the costs of each person's choices of how to lead her life. Since everyone starts out with the same amount of money, and can

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[45] *LCC* p. 190.

[46] Ronald Dworkin, "What is Equality? Part 2: Equality of Resources", in *Philosophy and Public Affairs* 10, no. 4, 1981. (Princeton Univ. Press), pp. 283-345.

bid on all available resources, this is a fair bargaining situation. Kymlicka asks us to imagine two ships participating in a similar auction.[47] One is very large, the other quite small. By entering bids into on-board computers the passengers of both ships conduct their auction without meeting each other. After the auction is completed, the passengers disembark to claim their resources and discover that the ships are from different nations.

Is this a fair bargain for all passengers? Presumably people on both ships started with the assumption that their cultural context would be maintained without extra expense. Now the minority culture, who happened to distribute their resources evenly across the island, are faced with the circumstance of unequal resources to ensure the survival of their culture. In order to maintain the cultural context of choice which they had in the ship, they must collectively reallocate some of the resources which they wanted to use for their personal projects. Do they have a choice of doing otherwise? Recall that for Kymlicka, assimilation to the majority culture is not a meaningful

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[47] *LCC* p. 189.

option. The minority will have to try to live within the public space dominated by the other culture, and their interests will be neglected in most of the votes. In fact, they are dependent upon the good will of the majority if the legislature is to pass any special measures recognizing their distinctness or supporting their institutions. Here we have an example of universal equality in terms of voting rights, which does not recognize difference. Because the majority enjoy an advantage of a secure cultural structure "for free", this constitutes an injustice according to Kymlicka.

Consider an analogy with the debate over access for the disabled: people who can walk seldom think twice about climbing a flight of stairs or crossing the street. Why should all of us pay to accommodate the special needs of people who want to enter schools, offices, churches, courtrooms, and hospitals? On the strict egalitarian view, these people are to be treated just the same as everyone else. The taxes they contribute are spent to meet the needs of the majority, and their special requirements are taken into consideration when the legislators are feeling magnanimous. The role of the liberal state is to build

roads which are open to all, and whoever is unfortunate enough to be born with a disability (or to acquire one) should pay the extra expense of constructing ramps, elevators and audible traffic signals wherever she wants to go.

Kymlicka's objection is that in Canada at least, the public roads are not open to all members of the public. In terms of cultural membership it is clear that aboriginal people cannot pursue their traditional ways of life within the context of federal government regulations. This inequality would remain even if individual members of aboriginal communities did not suffer from a lack of material resources. Thus, Kymlicka is arguing for more than temporary affirmative action programmes, which aim to bring the members of the minority culture "up to par" with the majority and then leave them to fend for themselves. He means that the circumstances of aboriginal cultural membership will be perpetually unequal when he calls them "special":

> the guarantee of aboriginal rights can be seen as spelling out what it means to treat aboriginal people as equals, given their special circumstances.[48]

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[48] *LCC* pp. 190-1.

The analogy with physical and mental handicaps is instructive. Much as we would like to propound an ideal political theory which prevents inequalities from arising, in reality it is likely that inequalities of circumstance will disadvantage at least some people before they make their choices. In the case of physical handicaps, even if medicine developed ways to diagnose and correct all prenatal conditions deemed to be "disabling", some people would still suffer accidents and thereby become disadvantaged through no voluntary choice of their own. The idea of an insurance policy is appealing. We do not know which of us might be struck by lightning tomorrow, so each of us votes to establish an insurance policy to cover the unchosen costs of such an eventuality.

However, Kymlicka warns that the loss of one's cultural membership cannot be compensated by monetary benefits, which simply replace one set of means (physical fitness) by another (financial strength). Cultural membership is "the context within which we choose our ends, and come to see their value, and this is a precondition of self-respect, of the sense that one's ends are worth

pursuing."[49] Hence, it is absurd to ask someone to give up her cultural membership in exchange for monetary compensation. A passenger on a ship might as well try to jump overboard in hopes of getting more resources on the island; without a secure cultural context, as Kymlicka insists, resources are useless.

Is such a trade-off really so absurd? Kymlicka notes that "Indians in Canada have continually rejected offers to relinquish their land claims in return for large cash sums." [193] However, there exist many people who have chosen to leave their secure cultural structure in exchange for increased resources and opportunities. At one end of the spectrum are refugees, for whom mere survival in their home countries is no longer possible. At the other end of the spectrum are the classes of immigrants now given highest priority in Canada: well-heeled investment immigrants and skilled professionals. They have benefited from a secure cultural structure while growing up, yet in emigrating, they choose freely to weaken or eliminate that structure in return for an improved range of life-choices and opportunities to access resources. Can refugees and

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[49] *LCC* p. 192

immigrants be seen as trading their cultural membership in return for compensation in the form of other basic goods?

The case of refugees is clear. Except in very extreme cases where cultural ties are deemed more important than life itself, a person will forgo her cultural membership in order to survive physically. But as Kymlicka elaborates in his most recent work, "the choice to leave one's culture can be seen as analogous to the choice to take a vow of perpetual poverty..."[50] In other words, although it is not impossible to live in poverty, (or under constant persecution and threat of death) it doesn't follow that a liberal theory of justice should therefore view the desire for a level of material resources above bare subsistence as abnormal. Recall that for Kymlicka, cultural membership is a necessary resource for making meaningful life-choices and not a optional 'luxury'. The claim is that "leaving one's culture, while possible, is best seen as renouncing something to which one is reasonably entitled."[51]

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[50] *Multicultural Citizenship: a liberal theory of minority rights* (Oxford University Press: 1995), p. 74.

[51] Ibid. p. 75

How are we to explain the actions of immigrants who seemingly trade in their cultural ties for the prospect of professional or material advancement? There are two points to be made here. First, there is a pre-selection factor in emigration: people who choose to leave their homelands are often not strongly attached to the values espoused by their 'home' cultures. Relatively open to revising their beliefs, immigrants are often determined to integrate elements of their heritage with the new culture in order to provide a secure "hybrid" cultural context for themselves and their children. The second point is that this project does not always succeed, particularly for the children of immigrants, who don't consent to this trade-off. Kymlicka makes this point forcefully in his recent writing:

> Children have the right to be raised as full participants in a societal culture which provides them with a diverse range of options, and parents cannot waive this right. For this reason, if we do not enable immigrants to recreate their old culture, then we must strenuously work to ensure that the children integrate into the mainstream.[52]

To summarize bluntly, refugees and immigrants face Hobson's choice in the matter of giving up cultural membership.

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[52] Ibid., p. 91 fn19.

III. Two Problems

Recall the main points of Kymlicka's argument for group rights so far:

1. Leading the good life requires two preconditions:

P1. leading my life from the inside, and

P2. revising my beliefs about what gives value to life.

2. Being able to lead my life from the inside requires a secure context of choice within which I choose my projects and aims.

3. My context of choice is shaped by my political community (citizenship) and by my membership in a cultural community. Canadians share the same citizenship but belong to different cultural communities.

4. Cultural membership qualifies as a Rawlsian primary good.

5. Cultural membership is a good distributed and maintained by the basic structure of society.

6. My inward perspective on my own culture is not interchangeable with my outward perspective on other cultures.

7. Cultural membership is constitutive of personal identity. Hence asking me to assimilate to another culture is not equivalent to respecting my cultural membership.
8. I am responsible for the costs of my choices but not for the inequalities (and ensuing extra costs or extra benefits) due to my circumstances.
9. The majority of Canadians enjoy the benefits of secure cultural membership for free but minorities have to pay extra.
10. Therefore, minority cultures in Canada need group rights to ensure the survival of their communities.

The above is a rough tracing of the moves which I have followed throughout this essay. In the remaining pages I shall explore two problems and suggest possible Kymlickan responses.

A. Punishing the Majority

The first problem is already implicit in Point 8 above: according to Kymlicka, I am responsible for the costs of my choices but not for the inequalities (and ensuing extra costs or extra benefits) due to my

circumstances. That is, a member of the majority culture is not responsible for the extra benefits she enjoys 'for free' by virtue of belonging to the majority. Her choices have no more to do with the inequality of her circumstances than do the choices of an aboriginal person. In other words, not one of the passengers on our hypothetical two ships foresaw either that she might need to allocate extra resources and efforts to maintaining her context of choice - or that she might benefit from the accidental fact that her context coincides with the norm.

This symmetry prompts the following objection: Surely the members of the majority culture should not be penalized for their (advantageous) circumstances, which are beyond their control. As Wesley Cooper reminds us, Rawls's difference principle holds gifted people responsible if they choose to strive for a greater than equal share of primary social goods, but not for the circumstance of being born gifted. Cooper argues that the majority are not to be criticized for failing to remove an inequality from which they unjustly profit. The well-off have a natural duty to aid those in distress, but this is a matter of personal virtue. If they neglect the worse-off, then, this is:

> [therefore] not a failure to be made good by reshaping liberal political morality so that a minority culture's group rights to equality are a demand of justice directed towards majority cultures, but instead a demand for decent or humane or charitable consideration of the minority's plight, directed towards anyone who can help them.[53]

This point is grounded in the contemporary reality of aboriginal rights claims, which are addressed towards the majority cultures in power. It is invariably the majority culture which ends up footing the bill for the extra expense of maintaining minority cultures, since by definition the members of the majority culture also constitute the majority of taxpayers. A parallel in our society is that most people attend public school for free while some of the less fortunate have to pay for "special" education. People are not responsible for their natural endowments. The objection comes close to asking whether "we" -the able of body and mind- have a duty to fund schools for "them" -the physically and mentally disabled.

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[53] Wesley Cooper, "Critical Notice of Will Kymlicka's *Liberalism, Community and Culture*", *Canadian Journal of Philosophy* Volume 23, Number 3, September 1993, p.440.

Kymlicka might reply first by pointing out that an injustice of circumstance does not necessarily entail a minority claim against a majority. On the liberal egalitarian view, the inequality of present circumstances constitutes an injustice because the members of the majority culture get for free what aboriginal people have to pay for: secure cultural membership. Thus aboriginal people are not being treated as equals. Surely it is a matter concerning the liberal state as a whole, not a claim of one group against another. 'Endowment-insensitive' distribution[54] compensates for the morally arbitrary fact that everyone, regardless of culture, faces inequalities which are the product of their circumstances or endowment, not their choices or ambitions.

Second, the analogy of the gifted has one flaw. Rawls states that his difference principle would allocate resources in education, say, so as to improve the long-term expectation of the least favored. If this end is attained by giving more attention to the better endowed, it is permissible; otherwise not. [55] Belonging to the majority

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[54] The term is Ronald Dworkin's. Cf. "What is Equality?", Parts I and II, *Philosophy and Public Affairs,* Vol. 10, 1981.

[55] *TJ* p. 101.

culture, unlike being gifted, is not a natural talent which can be regarded as a common asset and distributed so that all may share in the benefits. Indeed, Rawls emphasizes the important "role of education in enabling a person to enjoy the culture of his society and to take part in its affairs, and in this way to provide for each individual a secure sense of his own worth."[56] Suppose that Kymlicka has succeeded in convincing us that assimilation is not a viable alternative to maintaining one's own cultural membership (Point 7). It is difficult to imagine an aboriginal child developing a secure sense of her own worth when there are scarce resources allocated for the activities of her traditional culture. Economically, of course, her long-term expectations would be favoured by moving to the city and joining the majority. However, Rawls asks us not to assess the value of education "solely in terms of economic efficiency and social welfare"[57], and I would extend the relevance of the point to the value of cultural membership.

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[56] Ibid.

[57] *TJ* p. 101.

B. Individual Rights or Community Survival?

A second problem arises out of Kymlicka's discussion of the rights of individuals within the minority culture. He gives the example of the Pueblo, who live on a theocratic American Indian reservation which denies liberty of religious belief. The purpose of granting semi-sovereign status to Indian nations in the United States is to protect the vulnerable context of choice provided by an Indian minority community. Individuals belonging to that community may then choose their projects and aims within the context of their minority culture, rather than being overwhelmed and dislocated by the pressure to assimilate to the surrounding non-Indian majority. Kymlicka acknowledges that for many of the Pueblo, "violation of religious norms is viewed as literally threatening the survival of the entire community."[58] Notwithstanding this fact, Kymlicka defends the rights of religious dissidents within the Pueblo community, invoking the revisability of belief as his second precondition for leading the good life. People within the community must be "free to choose what they see

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[58] Svensson, F. "Liberal Democracy and Group Rights: The Legacy of Individualism and its Impact on American Indian Tribes." *Political Studies*. Vol. 27, p. 434.

to be most valuable from the options provided"[69] so that each person can use and interpret her cultural experiences in her own chosen way.

Note that Kymlicka's view entails a policy of 'liberalizing' theocratic communities so that their members have freedom of religious belief. Does this lead to liberalizing patriarchal communities so that their members have free choice of gender roles, or liberalizing aboriginal communities so that their members are free to choose non-aboriginal lifestyles? The objection is articulated by those who hold that minority communities require protection from dissidents to prevent them from disintegrating altogether. Québécois nationalists, for example, will not tolerate any choice of language other than French because they fear that the proliferation of linguistic dissidents will destroy their project of perpetuating a flourishing Québécois society. Charles Taylor makes this point:

> ... Kymlicka's reasoning is valid (perhaps) for existing people who find themselves trapped within a culture under pressure, and can flourish within it or not at all. But it doesn't justify measures designed

[69] *LCC* p. 198.

> to ensure survival through indefinite future generations.[60]

Kymlicka's argument for including cultural membership as a primary good fails to distinguish between the initial existence of a cultural context (say, at a person's birth) and the continued perpetuation of this same cultural context, its endurance through all the revisions an individual may choose to make. It is this distinction which is the source of the practical disagreements about how to implement minority rights.

The question is whether the primary good of cultural membership takes precedence over the liberal egalitarian interpretation of individual rights. If the survival of a secure Québécois cultural context is the fundamental precondition for meaningful individual choice, then it is justifiable to restrict the linguistic options for Québécois individuals. However, if what is vital is the ability to consider other options and revise one's beliefs about what gives value to life, then the project of protecting cultural membership can be revised away, leaving

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[60] "Multiculturalism and the 'Politics of Recognition'", p. 41, footnote.

little to distinguish the grandchildren of today's Québécois from the grandchildren of today's Ukrainian Canadians.

Kymlicka answers this question by appeal to the gap between ideal theory and partial compliance theory, claiming that issues of priority cannot be determined without "reasonably detailed knowledge of particular instances." [198-9] This is presented as a strength of his view, that it recognizes the great importance of the genuine conflict between the demand for equal dignity (individual rights) and the equally legitimate demand for recognition of difference (collective rights for cultural minorities). As we have seen by following the development of his argument for minority rights, Kymlicka advocates metaphysical liberalism rather than political liberalism. He does frame his arguments using his conception of the good life and its two preconditions which ground the whole theory. Conceptually, the status of cultural membership as a primary good is derived from the importance of revisability. In holding the interchangeability thesis, however, Kymlicka implies that assimilation, i.e. abandoning one's cultural context is not a meaningful

option. Having followed these steps, we come next to the following puzzling statement:

> Or we could say that cultural membership sometimes takes priority over individual rights and sometimes not - depending ... what avenues exist for individual members to choose to assimilate to another culture.[61]

If assimilating to another culture is a possible course of action, then cultural membership is not a primary good in the strong sense that Kymlicka has been asserting all along.

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[61] *LCC* p. 198.

IV. An Unpleasant Choice

As it stands, the small-ship communities on Kymlicka's view have two alternatives. They can join their resources with those of the large ship and enter the majority's context of choice at the cost of assimilation. Mingling together on the island, the new context will take its general shape from the culture of the large ship. This is what most immigrant minorities in Canada have done, accepting the majoritarian view that revisability of beliefs is a necessary component of the common good. This scenario presupposes that individuals are capable of making a choice about cultural membership, namely that they are metaphysical liberals like Kymlicka himself.

The alternative for the small-ship passengers is to claim collective rights, thereby asserting that their minority cultural context is more important than any individual passenger's chance of revising her projects. But this contradicts the very first premise of the argument. Claiming collective minority rights is not consistent with the metaphysical liberal conception of the good.

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